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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,239	01/31/2002	Satoshi Mochizuki	219007US0	6551

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EXAMINER

DOE, JANIS L

ART UNIT PAPER NUMBER

1756

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/059,239

Applicant(s)

MOCHIZUKI ET AL.

Examiner

Janis L. Dote

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached paragraph 1.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached paragraph 2.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-7 and 9-19.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 8.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: see attached

*Janis L. Dote*  
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1. The proposed amendment to claim 8 filed in the amendment filed after the final rejection on Jan. 5, 2004 (Amdt010504), raises new considerations because the proposed added limitations were not present in the claim at the time the final rejection was mailed. The proposed amendment raises the issue of new matter. As discussed in the rejection of claim 8 in the final rejection mailed on Sep. 3, 2003 (CTFR090303), paragraph 7, the originally filed specification discloses a one-component developing unit comprising, in addition to the toner vessel, four other components - a developer bearing member, a developer regulating member, a toner supplying member, and a stirrer blade. The proposed amendment to claim 8 does not recite the presence of a toner supplying member and a stirrer. Nor does the amendment recite that the developing unit is a one-component developing unit as disclosed in the originally filed specification. Furthermore, although the originally filed specification discloses that the toner may be used in a color image forming apparatus with a two-component developing system, such as the commercially available imaging apparatuses PRETER 550 and IMAGIO MF2700, there is no evidence on the present record to show that those imaging apparatuses comprise a developing unit comprising a developer bearing member and a

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developer regulating member as recited in proposed amended claim 8. The Ricoh Technical Report No. 22, July 1996, is in the Japanese language. Applicants have not verified that the hand-written English-language notations are a true or a correct translation of the Japanese document. Thus, the Ricoh Technical Report is of little probative value. Moreover, even if applicants were to provide a verified English-language translation of the Ricoh Technical Report, in view of the figure shown on page 131 of the report, it would still be necessary to determine whether the translation provides antecedent basis for a two-component developing unit comprising the components recited in proposed amended claim 8.

2. The examiner's refusal to enter the amendment filed after the final rejection in Amdt010504 renders applicants' arguments regarding said amendment moot.